Dear Jim,

Surveillance/Privacy suit

3/22/75

There has been more than enough time since I write the Secretary of Defense so that I think we can safely file that suit, covering all agencies in one. After you respond to Warners letter, and suggestions will follow- and he has had time for response - I hope you will do it. In this case I'd be inclined to forget about FOI and depend on discovery. There is only so much we can do. If you feel strongly otherwise, I'll go your way.

Remember I told you it was inevitable that the CIA in particular was intercepting my mail having to do with publishing. It is before the morning paper comes but the early a.m. new of yesterday's Congressional testimony leaves no doubt it was done exactly where I said it was done, in the NYCity Post Office. Well, that also is where those mysterious things happened to the ms. copy of Oswald in New Orleans. I suggest that you may want to talk to the P.O. general counsel first, possibly with me along. because I did make a series of complaints to them and did get what are now clearly false assurances that my mail was unmolested. More, I took them and open-and-shut fraud case. They described it that way. I have what was returned without action on the silliest excuse still sealed as they returned it. It was fraud and as you know on my own I got a 100% settlement plus interests and costs.

Now for Warner:

Dear Mr. W,

It has notx been possible for me to confer with Mr. Weisberg about your letter of February 5.~~xxxxxxxxxxxxxx~~We have both been quite busy. He spends an appreciable part of each day shipping books. He is a small publisher.

When I asked to see you originally it was on his suggestion. He had hopes that with what was emerging the CIA would prefer to avoid still another scandal, one including still another kind of transgression against private citizens in the domestic area.

When you had less than he knew your files have to hold and insisted that was all you had been given, he told you one item in specific you should have had with what you did have and of other files you also should have been given.

When you asked for specifics he replied he wanted a sign of good faith from you first. He then broke down proofs for you this way: that of which he has copies (and he does, for I have seen some); those where he has the most substantial reason to believe; and those where there is more than reasonable suspicion.

Mr. Weisberg intended his forthrightness to be a sign to you of a willingness on his part to be cooperative as well as a testing of yours , meaning of those who would make searches for you as well as your own.

He tells me that he regards your letter of February 5 as a semantical answer on your part and as certainty those who speak for the agency are not being honest or forthright. But he has also asked me to write you again before moving this into court.

You say you do not have his second letter to Mr. Helms. This simply isn't possible, as he sees it, because it was the second letter only to which any kind of response was made and you had a record of that limited and non-responsive response, sending Mr. Weisberg a copy of a speech.

Long before the recent testimony about CIA mail interceptions this is one of the several substantial areas to believe items of which he told me. He tells me the content of his Eastern European correspondence, which was recently testified to, and of proofs of still others he is confident will be attributable to the CIA.

All this correspondence deals with his first amendment rights, almost all with efforts to have his books published abroad. Not only in Eastern Europe. The one exception is a letter on which he first conferred with USIA and then amended it to incorporate what it, the Department of State or both wanted incorporated in it. It should be ~~xxxxxxxxxxxxxxx~~ obvious that this is quite the opposite of suspicious or in anybody's interpretation "subversive." And the one of which he can think without checking his files that does not deal with publishing efforts does seek information for a book of which I also know, a book then researched, one he still plans to write.

At a time when it is now certain the CIA was intercepting and copying overseas mail Mr. Weisberg has proof of this and of further interference with his rights. You will remember that this is one of the specifics he gave you verbally, and that he told you it did not mean your agency only. He went into practises as he knew them from personal experience, too. This further interference is amply supported by proofs Mr. Weisberg says he has from the other side, Europe.

The time is near when I will have to take time to go over his copious records.

However, for whatever my assurance as a fellow lawyer is worth, I tell you that I have now worked closely with Mr. Weisberg on several matters and have a uniform experience.

There is no case when he has said here is where we will find evidence and this is what it will include when we have not found exactly what he said where he said we would. One recent case of this was in our exercise of discovery in the James Earl Ray evidentiary hearing. Here we received denials similar to yours and then obtained that the existence of which was denied, in case after case. I recall no single exception.

There is no case in which he did not correctly analyze evasions and semantics, describe them as such, and then prove it.

Just a few days ago he received, after I initiated steps for suit, a document the existence of which had been denied to him for about eight years, in writing.

If you doubt what I am trying to tell you, you might be interested, if you have not done it already, in examining the record in C.A.2052-73. After all my experience with him I was surprised at what he could retrieve without further investigation. His affidavits in that case do not disclose all with which he provided me. I cut out considerable proofs I did not regard as essential. This includes exhibits I did not find it necessary to attach.

I also remind you that when you phoned me after our visit you told me that you had found "a few items" and would be looking further. This and your letter are not consistent. It did not include Mr. Weisberg's old O.S.S. personnel file, either, because we dispensed with that on our visit.

I take this time for the same reasons I asked for the meeting with you, to avoid what it might be able to avoid. For whatever the word of a fellow lawyer can mean to you, I assure you that this includes what can be considerable embarrassment to the Agency and individual employees. Mr. Weisberg is well prepared for discovery, which we will exercise. And from my preliminary checking I am quite confident - in some respects absolutely certain - of what it has to yield. You ought not want this, I sincerely believe.

Honesty is foreign to these types. A direct and honest approach baffles them. It has the advantage not so much of calling shots as of making a record that will show a judge we made strenuous efforts to avoid litigation while also making a record of their dishonesty when it will become a choice between their word and ours. It lets them have another crack at avoiding litigation and no judge ought not prefer that today.

I remind you of strange doings between me and more than one West German publisher of which I have some records and on which there was mail interferance (remember the book also said Oswald was an agent and it was the first such allegation in any book). I have records of interference with my mail with my second book in England and substantial reason to believe there was successful interference with the first there. Some of this mail was never delivered, both ways. I have the to-England proofs and can get them on non-delivery of the correctly addressed.

This post office testimony of yesterday is fantastic for us not only because it means they were interfering with my mail while denying it to me but because there was fraud and the proof exists in more than the settlement. Would any judge believe that a 100% out-of-court settlement to which interest and costs were added represents anything less than full recognition of this? Now you know why I never broke the seal on what the post office returned. This has to be a no-lose one! Hastily,